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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,092	03/01/2002	Anthony C. Bonora	34741-774	1981
33864	7590	02/14/2006	EXAMINER	
O'MELVENY & MYERS, LLP 275 BATTERY STREET SUITE 2600 SAN FRANCISCO, CA 94111-3305			FOX, CHARLES A	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 02/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/087,092		BONORA ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Charles A. Fox		3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,4,8-10 and 18-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,8,18,19 and 21-24 is/are rejected.
- 7) ☒ Claim(s) 2,9,10,19 and 25-50 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 October 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a) because they fail to show the location of the first and second horizontal planes as in many of the newly presented claims. A figure showing a side elevation with the two horizontal planes as well as the housings in question. The same reference numerals should be used for these items as originally found in the specification. No new matter will be entered. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities: the related applications indicated by applicant have not been identified. They must be identified and their status made known in response to this objection. Appropriate correction is required.

### ***Claim Objections***

Claims 9,26-31,34-36,44,46 and 47 objected to because of the following informalities: All contain references pertaining to a housing that appears to be differently named in the disclosure. Elements are taught in the disclosure that may be considered housings, but the claims should be amended to call the elements by the names given them in the disclosure. If applicant feels this is unwarranted merely pointing out the reference numerals for these elements and where it is located in the specification will be sufficient to have this objection withdrawn. No new matter should be entered into the disclosure or drawings. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 22 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear if the "container seat" on line 4 is a second seat or if the word should be seated. As such it is not possible to determine of

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the two horizontal planes are within one wafer cassette or rather two seats for two wafer cassettes. The claim is being treated as being directed to a multi shelf wafer cassette where the shelves are on different horizontal planes. Clarification is required.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims (1,8,18,21 and 24) and 19 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 4 respectively of copending Application No. 10/087,638. The indicated claims in the instant application encompass the limitations of the commonly owned application No. 10/087,638. and as such are obvious variants of the device claimed therein. This is a provisional obviousness-type double patenting rejection.

***Allowable Subject Matter***

The following is a statement of reasons for the indication of allowable subject matter: Claims 1,8 and 18 will be allowed once a timely filed terminal disclaimer is received and approved. Claim 1 has the limitation of the storage area being located between the interior and exterior surfaces of the structure secured to the bottom of the elongated structural members. Claims 8 and 18 have the limitation of the opening in the isolation plate being within the vertical bounds of the elongated vertical structural members. The closest prior art of Bacchi et al. does not teach or suggest providing these limitations.

Claims 30-38 and 44-50 will be allowed once the objections to claims 30,31,34-36,44,46 and 47 are addressed. The following is a statement of reasons for the indication of allowable subject matter: claims 30,34 and 44 all have limitations pertaining to vertical heights of a housing relative to two defined horizontal planes. The closest prior art of Bacchi et al. does not teach or suggest providing housings as claimed in the newly presented claims.

***Response to Amendment***

The amendments to the claims filed on November 25, 2005 have been entered into the record.

***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Claims 1,8,18,19,21 and 24 rejected under nonstatutory double patenting.

Claims 22 and 23 are rejected under 35 U.S.C. 112 second paragraph.

All claims dependent upon 1,8 and 18 are objected to as being dependent upon a rejected claim.

Claims 9,26-31,34-36,44,46 and 47 are objected to.

The specification and drawings are objected to.

Claims 30,34 and 44 have allowable subject matter and will be in condition for allowance along with their dependent claims once the objections to the claims is addressed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached between 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*CMH/gpk 2-6-06*  
Charles A. Fox  
Examiner  
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